

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:13-cv-00090-GCM

JONATHAN HENSLEE,	)	
	)	
Plaintiff,	)	<b>PROPOSED VOIR DIRE BY</b>
	)	<b>DEFENDANT SINGLETON</b>
v.	)	
	)	
FNU SINGLETON,	)	
	)	
Defendant.	)	

NOW COMES Defendant Singleton, through the undersigned counsel, and provides his proposed voir dire in advance of the scheduled March 27, 2017, jury trial in this matter:

**I. ACCEPTANCE OF LEGAL ISSUES**

- A. If the judge were to instruct you that as correctional officers, the Defendants can use force against Plaintiff without violating any laws, could you follow that instruction?
- B. If the judge were to instruct you that even though Plaintiff may allege injury, that causing injury alone is not satisfactory to find that Defendants did something wrong, could you follow that instruction?
- C. If the judge were to instruct you that you had to find that Defendants applied force to Plaintiff “maliciously and sadistically” for the purpose of causing harm before you could award him any recovery, could you follow that instruction?
- D. Do you have a fundamental disagreement with the following statement: In a prison setting, an officer can lawfully apply that force he believes reasonably necessary to control a violent inmate taking into consideration the conduct of the inmate and threat reasonably perceived by the officer based, in part, upon the inmate’s past history of violence and assaultive conduct.
- E. Do you have a fundamental disagreement with the following statement: The fact of injury from force, alone, does not entitle Plaintiff to any recovery for damages, even if he does, in fact, suffer damages.
- F. Do you have a fundamental disagreement with the following statement: Correctional officers can use force against an inmate in a good faith effort to maintain or restore discipline.

## **II. KNOWLEDGE OF PARTIES, WITNESSES, AND COURT.**

- A. Do any of you know any familiarity with this case or the following parties to this lawsuit – Jonathan Henslee or Marty Singleton? If so, then:
1. How did you hear about this case?
  2. Where and when did you meet [name]?
  3. Would your experience with [name] influence your thoughts or opinions of this case?
  4. Could you put aside those thoughts or opinions and render a verdict in this case based solely on the evidence presented and the law as I explain it to you?
- B. Have any of you or any member of your immediate family worked in a custodial setting?
1. Describe the nature of the custodial setting.
  2. Where and when did you or your family do this kind of work?
  3. Do you have any experience with allegations of excessive force in a custodial setting?
  4. Could you put aside those thoughts or opinions and render a verdict in this case based solely on the evidence presented and the law as I explain it to you?
- C. Have any of you or any member of your immediate family worked for the North Carolina Department of Correction (“DOC”) (prior to 2012) or the North Carolina Department of Public Safety (“DPS”)? If so, then:
1. When did you or the member of your family work for the [DOC or DPS]?
  2. Would your experience or the experience of your family at the [DOC or DPS] influence your thoughts or opinions of this case?
  3. Could you put aside those thoughts or opinions and render a verdict in this case based solely on the evidence presented and the law as I explain it to you?
- D. Do any of you know the following people who may be called as witnesses to this lawsuit – [Mike Ball, Betty Penland, Danny Stafford, Robin Hudgins]? If so, then:
1. Where and when did you meet [name]?
  2. What is your relationship to that person?
  3. Would your experience with [name] influence your thoughts or opinions of this case?
  4. Could you put aside those thoughts or opinions and render a verdict in this case based solely on the evidence presented and the law as I explain it to you?
- E. Do any of you know any of the people in the court room today [have everyone in the court room introduce themselves and ask counsel to identify any other attorneys or support staff who may be at counsel table during the trial]? If so, then:
1. Where and when did you meet [name]?
  2. Would your experience with [name] influence your thoughts or opinions of this case?

3. Could you put aside those thoughts or opinions and render a verdict in this case based solely on the evidence presented and the law as I explain it to you?

### **III. CRIMINAL BACKGROUND.**

- A. Have you or any member of your family been convicted of a criminal offense involving the use of force or an assault? If so, then:
  1. Would this influence your thoughts or opinions of this case?
  2. Could you put aside those thoughts or opinions and render a verdict in this case based solely on the evidence presented and the law as I explain it to you?
- B. Have you or any member of your family been confined in a jail, prison, or other custodial facility? If so, then:
  1. Would this influence your thoughts or opinions of this case?
  2. Did you have any experiences with the use of excessive force?
  3. Could you put aside those thoughts or opinions and render a verdict in this case based solely on the evidence presented and the law as I explain it to you?
- C. Have you ever been the victim of a crime? If so, then:
  1. What was the nature of the crime?
  2. Would this influence your thoughts or opinions of this case?
  3. Did you have any experiences with correctional facilities?
  4. Could you put aside those thoughts or opinions and render a verdict in this case based solely on the evidence presented and the law as I explain it to you?

### **IV. WORK EXPERIENCE.**

- A. What do you do for a living?
  1. What are your duties and responsibilities?
  2. How long have you done this work?
  3. Have you ever been suspended or dismissed from a job for performance or misconduct?
- B. What does your spouse or partner do for a living? How long have they been in that role?
- C. Do you have any close family members who are lawyers or work in the legal profession? Who? What do they do?

### **V. MEDICAL INFORMATION.**

- A. Have you or any member of your family ever suffered a chronic pain or chronic mental illness, anxiety disorder, or other disorder as the result of an external source? If so, then:
  1. What is the nature of the condition?

2. What was the cause of the condition?
  3. Were you provided any compensation for the cause of your injury?
  4. Do you or they still suffer from the condition?
  5. Would this influence your thoughts or opinions of this case?
  6. Could you put aside those thoughts or opinions and render a verdict in this case based solely on the evidence presented and the law as I explain it to you?
- B. If you have had any injuries, were they caused by someone else?
1. Were you involved in a lawsuit based on that injury?
  2. Based on that experience, do you have opinions about allegations that injuries are caused by Defendants in this case?
  3. Do you hold the opinion that injury caused by a Defendant should be compensated by that Defendant no matter the reason for causing the alleged injury?

**VI. EXPERIENCES WITH GRIEVANCES OR LAWSUITS.**

- A. Have you, an immediate family member or a close personal friend ever filed a complaint, grievance, or lawsuit against an agency of the State of North Carolina such as [DOC or DPS]? If so, then:
1. Were you satisfied with the result of the complaint, grievance or lawsuit?
  2. Would your experience or the experience of your family or friends influence your thoughts or opinions of this case?
  3. Can you put aside those thoughts or opinions and make a decision in this case based solely upon the evidence as presented during the trial and the law as I explain it to you?
- B. Have you or your immediately family member or a close personal friend ever filed a lawsuit seeking compensation for any kind of injury?
1. Were you satisfied with the result of the complaint, grievance or lawsuit?
  2. Would your experience or the experience of your family or friends influence your thoughts or opinions of this case?
  3. Can you put aside those thoughts or opinions and make a decision in this case based solely upon the evidence as presented during the trial and the law as I explain it to you?

**VII. DENYING PLAINTIFF RECOVERY.**

- A. Are you able to follow the law as the judge instructs you, even if that means you must find that Plaintiff is not entitled to recovery of any type?

Respectfully submitted this 27<sup>th</sup> day of February, 2017.

JOSH STEIN  
Attorney General

/s/ Kimberly D. Grande  
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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the **PROPOSED VOIR DIRE BY DEFENDANT SINGLETON** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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This the 27<sup>th</sup> day of February, 2017.

/s/ Kimberly D. Grande  
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